

## **SIGNIFICANT LEGISLATIVE RULES ANALYSIS**

### ***For Rules Concerning Physical Therapists and Physical Therapist Assistants***

#### **WAC 246-915**

##### **Proposed Amendatory Sections:**

WAC 246-915-040 Licensure by endorsement-Applicants from approved schools

WAC 246-915-050 Expired license

WAC 246-915-105 Approved physical therapist assistant schools

WAC 246-915-180 Professional conduct principles

##### **Briefly describe the proposed rule.**

The proposed rule amendments seek to increase the standards of appropriateness of physical therapy care in accordance with RCW 18.74.025.

##### **Changes for Clarification:**

- Extend physical therapy licensure eligibility requirements from 2 years to 3 years without employment.
- Change language from continuing education to continuing competency for board scrutiny of licensees that have not worked in physical therapy for 3 years.
- Amend the title of WAC 246-915-050 from Expired license to Reinstatement. The change better describes the intent of the section.
- Rephrase the reinstatement requirements for a practitioner whose license has been expired for over three years, and has not been in active practice in another United States jurisdiction. The change in language clarifies the authority of the Board to decide on reexamination and/or other evidence necessary to ensure the applicant is professionally competent before returning to active practice in Washington State.
- Recognize the role of the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education in establishing the education standards for physical therapist assistants. A board approved physical therapist assistant program shall mean a United States physical therapist assistant education program accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education or a United States military physical therapy technician program that is substantially equal to an accredited United States physical therapist assistant program. The regulation of physical therapist assistants is not authorized under RCW 18.74. While the supervising physical therapist is trained to provide the examination, evaluation, diagnosis, prognosis, and treatment plan, physical therapist assistants are considered paraprofessionals who

work under the direction and supervision of the physical therapist and are trained to provide physical therapy interventions. Given that physical therapist assistants are not required to work under direct supervision and frequently work in unsupervised settings such as home health and public schools, this rule is necessary to establish that physical therapist assistants meet minimum educational qualifications in order to protect the public.

**Changes Imposing Additional Requirements:**

- Prohibit physical therapists from receiving reimbursement for evaluating or treating him or herself. The restriction is necessary to protect the public from excessive charging and an over-utilization of physical therapy services.
- Require physical therapists to only delegate physical therapy tasks to trained supportive personnel as defined in WAC 246-915-010 (4)(a) and (b). The amendment seeks to protect the public from the delegation of physical therapy services to untrained, unskilled, and unqualified individuals.

**Is a Significant Analysis required for this rule?**

Yes.

**A. Clearly state in detail the general goals and specific objectives of the statute that the rule implements.**

Under RCW 18.74.023, the Board of physical therapy is empowered to adopt rules that are considered necessary to protect the public. In accordance with RCW 18.74.025, the Board is empowered to adopt rules relating to standards of appropriateness of physical therapy care.

**B. Determine that the rule is needed to achieve these goals and objectives, and analyze alternatives to rulemaking and the consequences of not adopting the rule.**

Because enforcement is required, rule amendment is the only method to revise the current rules. Standards of practice for physical therapists and physical therapist assistants are insufficient because they lack the enforcement of a rule amendment.

**C. Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.**

Substantive changes to this rule are analyzed in the numbered list below. However, a portion of this rule is only for clarification. This change does not impose costs on affected parties, and so is

not included in this cost-benefit analysis. The following change is not included in further analysis:

*1. Licensure by endorsement – Applicants from approved schools (WAC 246-915-040)*

Physical therapy licensure by endorsement can occur four different ways. First, licensure by endorsement is extended to an applicant that graduated from a Board approved school and achieved a passing score approved by the Board. Second, if the examination to extend licensure by endorsement is based on an examination other than the examination approved in WAC 246-915-030(1), then the Board shall determine if such examination is equivalent to that required by the laws of Washington State. Third, no recommendation by the Board will be made for a person licensed as a physical therapist under the licensure by endorsement provisions of RCW 18.74.060 unless said applicant shall have taken and passed the Board approved examination or equivalent examination. Fourth, if the applicant is a licensee and has not worked in physical therapy for a maximum of two years, they may be granted licensure by endorsement if they follow the conditions of the Board that may involve reexamination or evidence of competency. The proposed amendments to WAC 246-915-040 are meant to extend physical therapy licensure eligibility from 2 years to 3 years without employment. The benefits of extending 2 to 3 years could potentially increase the number of physical therapists and may result in price reduction for physical therapy services or at least help with price stabilization. There is no cost associated with eligibility period extension. Also, the proposed amendments are necessary for the board to scrutinize the aforementioned applicants for competency in physical therapy rather than the old definition of education. Evidence of competency assures a high level of physical therapy services, ultimately leading to a high level of care to physical therapy clients who are the residents of Washington State.

Amend the title of WAC 246-915-050 from Expired license to Reinstatement. The change better describes the intent of the section while imposing zero costs on affected parties.

*2. Reinstatement (WAC 246-915-050)*

The associated costs for the proposed rule are zero. There is no cost to affected parties to adopt the rule amendment because the change is for clarification. The change of language does not put forward any new requirements and there is no added financial impact to the approximately 65 reinstatement applicants each year. The current language does not clearly describe the Board's expertise in reinstatement matters. The proposed rule clarifies the intent of the original rule: Reinstatement before the Board creates a reasonable opportunity for applicants to show, on a case-by-case basis, proof of competence through clinical observations without having to retake the national exam. Increasing clarity in the language benefits those seeking reinstatement.

*3. Approved physical therapist assistant schools (WAC 246-915-105)*

There are no costs to adopt changes to the approval of physical therapist assistant schools. The recognition of approved physical therapist assistant schools are meant to clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association responsible for establishing educational standards and developing

appropriate systems for outcome measurements within U.S. physical therapy education programs and standards for physical therapist assistants. The current rule adopts the educational standards for U.S. physical therapy programs established by the American Physical Therapy Association and has been in effect since their accreditation process in 1985. Affected parties only benefit from further clarification of the language.

Currently, DOH adopts the educational standards for physical therapist assistants established by the American Physical Therapy Association. The rule amendment will not affect applicants who were trained outside the U.S. because physical therapist assistants are unique to the U.S. health care system. This rule amendment does not change current Board standards; rather it further seeks to protect the public from physical therapist assistants that do not meet the minimum education qualifications to provide physical therapy interventions.

#### *4. Professional conduct principles (WAC 246-915-180 (10) and (11))*

The associated costs are minimal for physical therapy practitioners who provide physical therapy services in a professional and ethical manner. The state will benefit in savings and the public will find further protection from unethical physical therapy charges. New requirements that prohibit physical therapists from receiving reimbursement for self evaluation and/or self directed treatment and the delegation of physical therapy tasks to trained personnel are meant to protect Washington State from excessive charging and over-utilization of services. Over the past five years the board experienced a 30% increase in complaints from insurance companies involving physical therapists that were evaluating and directing their own treatment for injuries. Also, the lack of physical therapist assistant regulation makes Washington State a desirable state to practice for individuals who have been previously disciplined as physical therapists or physical therapist assistants. The public will benefit from the protection of the rule's stipulation that physical therapists can only delegate services to individuals who meet the definition of trained supportive personnel. This amendment protects the public from the delegation of physical therapy services to untrained, unskilled, and unqualified individuals.

**D. Determine, after considering alternative versions of the rule, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated previously.**

DOH staff worked closely with constituents and the public to minimize the burden of this rule. For example, during the comment period, town meetings were held and draft rules were sent to all Washington licensed physical therapists and all know physical therapist assistants through the Physical Therapy Association of Washington.

The proposed rule for WAC 246-915-105 (to recognize the role of the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education in establishing the education standards for physical therapist assistants) is less burdensome for those required to comply with it because in the absence of a rule establishing the educational standards adopted by the Commission, the physical therapy board could potentially be faced with

the review of more than 100 physical therapist assistant programs every five years. The American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education is the only accrediting body for physical therapist assistant programs in the U.S. To maintain accreditation status, each program is required to undergo review every five years. There are currently more than 100 physical therapist assistant education programs in the country.

The review process utilizes the expertise of hundreds of academicians and clinical instructors across the U.S. and can take up to six months per program. The board of physical therapy is made up of four physical therapists and one consumer member, all essentially volunteers in the accreditation review process considering the board does not regulate physical therapist assistants. Both the time factor and prohibitive costs involved in the process would make this alternative impossible to implement and would significantly inhibit the physical therapist's ability to employ or utilize qualified physical therapist assistants. This would result in limited access to physical therapy services throughout the state.

By statute, the board is authorized to define and specify the education and training of physical therapist assistants. While the board is not authorized to regulate physical therapist assistants, the board can establish minimum educational standards and require physical therapists to only utilize individuals who meet this education standard. Adopting the educational standards of the Commission is the least burdensome alternative because of the benefits produced to all affected parties.

**E. Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.**

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

**F. Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.**

The rule does not impose more stringent performance requirements on private entities than on public entities.

**G. Determine if the rule differs from any federal regulations or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.**

The rule does not differ from any applicable federal regulation or statute.

**H. Demonstrate that the rule has been coordinated, the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.**

There are no other applicable laws.